

Lewis, Judith

From: ellenatodd o <ellenatodd@hotmail.com>
Sent: Wednesday, January 11, 2017 10:09 PM
To: FOIA HQ
Subject: REQUEST: Request for EPA REGION 9 re: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Greetings EPA FOIA Public Liaison,

This request seeks any and all information held by EPA REGION 9 concerning compliance by the Hawaii Department of Transportation, Harbors Division with an EPA Consent Decree. As may be the case, this would include any information that might also be subject to the Freedom of Information Act (FOIA).

My initial request for this information was made more than a month ago, on December 3, 2016, and is described in a series of e-mails below. The initial inquiry was directed to Mr. Dean Higuchi, the Press Officer/Congressional Liaison/Public Affairs for US EPA, Region 9. Mr. Higuchi subsequently referred me to Mr. Conner Adams, the "Region 9 staff person overseeing this" subject.

Specifically, my questions concern:

- 1) What is the status of DOT Hawaii Harbors' compliance with the terms of the consent decree logged more than two years ago?
- 2) Have all of the deadlines and due dates under the Consent Decree been met? If so, are they reported on some document(s) that I can obtain? and
- 3) How can I obtain all of the documents, operating manuals, and associated documents submitted by DOT Harbors, ideally in electronic form?

More than a month after my initial request, the named POC below suggested that I submit these questions under the provisions of FOIA.

REQUEST FOR FEE WAIVER: I have authored a series of editorials in the Honolulu Star Advertiser; responses to the above questions as well as information derived from related reports will constitute the basis for another such article and inform the public's understanding of EPA enforcement of the subject Consent Decree, especially since Hawaii DOT Harbors previously failed to meet the terms of an earlier consent decree.

REQUEST EXPEDITED HANDLING: More than a month has passed since my initial request was submitted. Hawaii is currently in the winter season with significant rainfall. The parameters of DOT Harbors' operations plan require significant monitoring activities during such conditions; failure to do so could have significant impact on the environment. Findings will be disseminated to the public. Thank you for your consideration.

Thank you in advance for your timely assistance and response.

Respectfully,

From: ADAMS, CONNOR <Adams.Connor@epa.gov>
Sent: Wednesday, January 4, 2017 1:55 PM

To: ellenatodd o

Subject: RE: 2ND REQUEST: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Hi Ellen,

I apologize for the delay in my response. I have taken receipt of your emails and I suggest that you pursue a Freedom of Information Action request to obtain the information that you are seeking. I have included a link to EPA's FOIA webpage for your convenience. Region 9 is the appropriate "Sub-Agency" to address any Hawaii related FOIA to.

<https://www.epa.gov/foia>



Freedom of Information Act (FOIA) | US EPA

www.epa.gov

Freedom of Information Act (FOIA) The Freedom of Information Act (FOIA) is a federal law that gives the public the right to make requests for federal agency records.

Sincerely,

Connor Adams
Life Scientist
EPA Region IX
(415)947-4109
adams.connor@epa.gov

From: ellenatodd o [mailto:ellenatodd@hotmail.com]

Sent: Monday, January 02, 2017 9:02 PM

To: ADAMS, CONNOR <Adams.Connor@epa.gov>

Subject: 2ND REQUEST: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Dear Mr. Connor,

It has been more than a week since my last inquiry was submitted. I am not sure if you received either e-mail below, but please let me know to which address I should submit my request under the Freedom of Information Act. Thank you.

From: ellenatodd o <ellenatodd@hotmail.com>

Sent: Monday, December 26, 2016 9:07:24 PM

To: ADAMS, CONNOR

Subject: Re: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Apologies if I missed your reply, but please confirm receipt of my e-mail below.
Thank you.

From: ellenatodd o <ellenatodd@hotmail.com>
Sent: Thursday, December 22, 2016 12:54:37 PM
To: ADAMS, CONNOR
Subject: Re: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Thank you. Looking to definitively answer the question as to whether all of the deadlines and due dates were met. If so, are they reported on some document(s) that I can obtain?

From: ADAMS, CONNOR <Adams.Connor@epa.gov>
Sent: Thursday, December 22, 2016 10:55 AM
To: ellenatodd o
Subject: RE: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Hi Ellen,

Thanks for reaching out. As Dean mentioned, many of the submittals that have been completed by HDOT-Harbors in accordance with the consent decree are available at <http://hidot.hawaii.gov/harbors/library/storm-water-management/>. Please let me know if you are looking for specific documents that are not available via the link above. If so, we can work on a way to furnish a copy to you (presuming that the document is releasable to the public).

Harbors | Storm Water Management

hidot.hawaii.gov

"Malama i ke kai" – Protect Our Harbor Waters. For information or comments, please click here to send your request through email. Reporting Violations

Thank you,

Connor Adams
Life Scientist
EPA Region IX
(415)947-4109
adams.connor@epa.gov

-----Original Message-----

From: ellenatodd o [<mailto:ellenatodd@hotmail.com>]
Sent: Thursday, December 22, 2016 6:02 AM
To: adamsconnor@epa.gov; ADAMS, CONNOR <Adams.Connor@epa.gov>
Subject: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Aloha Connor,
Just realized that you were not copied on the e-mail below. Appreciate your reply at soonest. Thank you.

From: ellenatodd o <ellenatodd@hotmail.com>
Sent: Wednesday, December 7, 2016 8:49:22 PM
To: Higuchi, Dean

Subject: Re: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Mahalo Dean.

Aloha Connor,

Please see the questions below and let me know if you have anything to add. Thank you.

From: Higuchi, Dean <Higuchi.Dean@epa.gov>

Sent: Wednesday, December 7, 2016 4:15:31 PM

To: ellenatodd o

Subject: RE: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Ellen,

Some, but not all, of the documents required by the consent decree are listed on HDOT's website at the link below:

<http://hidot.hawaii.gov/harbors/library/storm-water-management/>

Also, Conner Adams is the Region 9 staff person overseeing this, please feel free to email or call:

Connor Adams

Life Scientist

EPA Region IX

(415)947-4109

adams.connor@epa.gov<<mailto:adams.connor@epa.gov>>

Thanks!

Dean Higuchi

Press Officer/Congressional Liaison/Public Affairs US EPA, Region 9, Hawaii Office higuchi.dean@epa.gov

808-541-2711

From: ellenatodd o [<mailto:ellenatodd@hotmail.com>]

Sent: Tuesday, December 06, 2016 12:09 PM

To: Higuchi, Dean <Higuchi.Dean@epa.gov>

Subject: Re: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Mahalo. So they met all of the deadlines and due dates? Moreover, how can someone access the documents and reports that have been submitted to EPA thus far?

From: Higuchi, Dean <Higuchi.Dean@epa.gov<<mailto:Higuchi.Dean@epa.gov>>>

Sent: Tuesday, December 6, 2016 3:51 PM

To: ellenatodd o

Subject: RE: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Ellen,

Here's the update from our San Francisco Regional staff who are monitoring this CD:

Hawaii Department of Transportation-Harbors Division (HDOT) has been submitting documents and performing the tasks associated with the consent decree. EPA and Hawaii Department of Health have been working closely with HDOT to ensure that the requirements of the consent decree are met. HDOT is eligible to terminate the consent decree once all compliance measure have been achieved; no sooner than November 2019

Thanks!

Dean Higuchi
Press Officer/Congressional Liaison/Public Affairs US EPA, Region 9, Hawaii Office
higuchi.dean@epa.gov<<mailto:higuchi.dean@epa.gov>>
808-541-2711

From: ellenatodd o [<mailto:ellenatodd@hotmail.com>]
Sent: Saturday, December 03, 2016 5:33 PM
To: Higuchi, Dean <Higuchi.Dean@epa.gov<<mailto:Higuchi.Dean@epa.gov>>>
Subject: Compliance with EPA Consent Decree (DOT Hawaii Harbors)

Greetings Dean,
What is the status of DOT Hawaii Harbors' compliance with the terms of the consent decree logged more than two years ago? Pending your reply, please CONFIRM RECEIPT of this e-mail. Thank you.

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News Releases By Date

U.S. EPA, DOH require Hawaii Department of Transportation to protect Oahu's coastal waters

Release Date: 09/10/2014
Contact Information: Dean Higuchi, 808-541-2711, higuchi.dean@epa.gov<<mailto:higuchi.dean@epa.gov>>

(09/10/14) HDOT to pay \$1.2 million for stormwater violations at Honolulu and Kalaheo Harbors

HONOLULU - The U.S. Department of Justice, the U.S. Environmental Protection Agency and the Hawaii Department of Health have reached an agreement with the Hawaii Department of Transportation (HDOT) that requires the department to pay a \$1.2 million penalty and correct federal Clean Water Act stormwater violations at the Honolulu and Kalaheo Harbors on Oahu.

"Stormwater discharges pollute Hawaii's streams and coastal waters," said Jared Blumenfeld, EPA's Regional Administrator for the Pacific Southwest. "By making long-term changes to its operations, HDOT is taking major steps to increase the protection of beaches, coral reefs and water quality on Oahu."

Inspections by EPA and DOH in December 2008 first identified the Clean Water Act stormwater violations at the harbor facilities. Stormwater runoff from unpaved land areas, paved streets and maintenance yards contains contaminants such as sediments, trash, chemicals, and oils that can flow into waterways and coastal zones, resulting in environmental damage. By creating a system of project review and oversight inspections, installing treatment systems, and exercising better control over tenant activities, HDOT can significantly reduce the amount of pollutants discharged in stormwater runoff.

"Storm water carries contamination from the land into the ocean; this is the biggest source of water pollution in our islands," said Gary Gill, Department of Health Deputy Director for Environmental Health. "All landowners are responsible to protect our streams and coastlines. With this case settled, we can expect our state government to be a better steward of Hawaii's clean waters."

The \$1.2 million in penalties will be divided equally between the State of Hawaii and the United States, and the settlement requires HDOT to undertake a variety of actions to improve the management of stormwater runoff at the two harbors, including:

- * Create a new Office of Environmental Compliance to ensure all HDOT facilities comply with federal, state and local environmental regulations. Develop a stormwater prevention outreach and training program to communicate with the public using harbor facilities, to inform the public about how their activities impact the quality of stormwater runoff.
- * Rank all harbor tenants annually based on their activities and risk of pollutant discharges. Inspect all high risk tenants twice per year, medium risk tenants once per year, and low risk tenants every five years.
- * Inspect stormwater outfalls during wet and dry weather for the presence of non-stormwater discharges, and assess the physical condition of each outfall to determine if maintenance is needed.
- * Establish a comprehensive Construction Runoff Control Program to control discharges from sites subject to new development or redevelopment. HDOT will study the feasibility of retrofitting construction projects, and complete at least three retrofits.

The consent decree for this settlement has been lodged with the federal district court by the U.S. Department of Justice and is

subject to a 30-day public comment period and final court approval. A copy of the decree is available on the Department of Justice website at: http://www.justice.gov/enrd/Consent_Decrees.html